

1
2
3
4 **UNITED STATES DISTRICT COURT**
5 **NORTHERN DISTRICT OF CALIFORNIA**
6

7 **MEDIA TEK INC.,**

8 **Plaintiff,**

9 **vs.**

10 **FREESCALE SEMICONDUCTOR, INC.,**

11 **Defendant.**
12
13

Case No.: 11-cv-5341 YGR

**ORDER GRANTING MEDIA TEK'S MOTION TO
EXCLUDE DTX-0584C (DKT. No. 485-5)**

14 Plaintiff MediaTek, Inc. has filed a trial brief on its motion to exclude defendant Freescale
15 Semiconductor, Inc.'s ("Freescale") proposed exhibit DTX-0584C, described as a "Site Activity
16 Spreadsheet."

17 On January 2, 2013, MediaTek served Interrogatory No. 22 requesting the locations where
18 Freescale tests its products. On February 1, 2013, Freescale produced a sworn response to this
19 Interrogatory identifying FSL-00125852 (the "Decoder"). On April 30, 2013, Freescale produced a
20 supplemental sworn response to Interrogatory No. 22 identifying FSL-02423972, a spreadsheet of
21 sales and testing information, with codes for site numbers for testing and manufacturing sites. On
22 June 7, 2013, MediaTek took the deposition of Andrew Percy, Freescale's Rule 30(b)(6) witness on
23 testing and sales of Freescale's accused products. Percy confirmed that the information in the
24 Decoder document accurately correlated to the site numbers in the spreadsheet. On the last day of
25 fact discovery, July 19, 2013, Freescale produced an updated version of FSL-02423972. MediaTek
26 relied upon Freescale's sworn response to Interrogatory No. 22, and the Decoder and spreadsheet
27 documents in particular, during expert discovery and to prepare its case for trial.
28

1 Then, on the verge of the original trial date, Freescale produced its proposed exhibit DTX-
2 0584C, a new document that undermines the correlation between the Decoder and spreadsheets and
3 purports to show that a very small proportion of products were tested in the United States.


4 Freescale offers no substantial justification for its failure to produce this document or the
5 information therein during the normal course of discovery. Moreover, MediaTek would be
6 prejudiced severely if it were admitted now.

7 The motion is **GRANTED**. Freescale's proposed exhibit DTX-0584C will not be admitted.

8 This Order terminates Docket No. 485-5.

9 **IT IS SO ORDERED.**

10 Dated: June 20, 2014

11 
12 YVONNE GONZALEZ ROGERS
13 UNITED STATES DISTRICT COURT JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28